REMARKS

Reconsideration of the application is requested.

Claims 1-9 remain in the application. Claims 1-9 are subject to examination. Claims 1, 3 and 9 have been amended.

Under the heading "Claim Rejections – 35 USC § 103" on page 2 of the above-identified Office Action, claims 1 4, 6 and 8 have been rejected as being anticipated by U.S. Patent No. 4,360,586 to Flanders et al. under 35 U.S.C. § 102.

Claim 1 has been amended to better define the invention. Support for the changes can be found by referring to the second full paragraph on page 4 of the specification.

The Examiner has referred to column 3, lines 46-53 of Flanders et al. and has stated that the process of Flanders further includes the use of multiple masks to form the ultimate pattern. Referring to column 3, line 40 through column 4, line 11 of Flanders et al., it is seen that the teaching relates to using a first mask to produce a second mask and then using the second mask to produce a third mask. The process of using the second mask to produce a third mask is shown in Figs. 3A-3G. This third mask, which is subsequently referred to as a parent mask 30 and is shown in Fig. 4, is the only mask that is positioned at a

distance from a support material, namely the silicon substrate 33, in order to pattern the support material.

It is clear that Flanders et al. teach positioning only one mask, namely, the parent mask 30 at a distance from a support material, namely the silicon substrate 33 and then directing light through the parent mask 30 to expose the silicon substrate 33. Flanders et al. do not teach steps b) and c) of claim 1, namely:

> positioning the plurality of the diffraction masks simultaneously or successively at a certain distance from the basic support material to be patterned, the distance being mask dependent; and exposing the basic support material by directing light beams through each of the plurality of the diffraction masks.

The invention as now defined by claim 1 is not anticipated by Flanders et al.

Under the heading "Claim Rejections – 35 USC § 103" on page 3 of the above-identified Office Action, claim 2 has been rejected as being obvious over U.S. Patent No. 4,360,586 to Flanders et al. in view of U.S. Patent No. 6,344,298 to Starodubov under 35 U.S.C. § 103.

Claim 2 has been written in independent form including all of the limitations of claim 1.

Even if there were a suggestion to combine the teachings in the references, the invention as defined by claim 2 would not have been obtained for the reasons given above with regard to claim 1 and the teaching in Flanders et al. Flanders et al. and Starodubov do not suggest steps b) and c) of claim 1, namely:

> positioning the plurality of the diffraction masks simultaneously or successively at a certain distance from the basic support material to be patterned, the distance being mask dependent; and exposing the basic support material by directing light beams through each of the plurality of the diffraction masks.

Furthermore, applicants assert that there is no suggestion to combine the teachings as the Examiner has alleged. Flanders et al. teach using a parent 30 mask to expose a silicon substrate 33 (see column 4, lines 17-25). In contrast to the teaching in Flanders et al., Starodubov does not teach using a mask to form a structure on a silicon substrate. Starodubov teaches using a single phase mask 10 for forming a grating in an optical fiber 42 (see column 3, lines 24-27 and column 4, lines 18-38, Figs. 3 and 4). The Examiner has alleged that combining the teachings of Flanders et al. and Starodubov would have resulted in a predictable result. Applicants, however, point out that a mask with a pattern used to expose an optical fiber would not produce a predictable result when used with the flat surface of a silicon substrate rather than with the circumference of the fiber. Therefore applicants believe that one of ordinary

skill in the art would not have obtained a suggestion to combine the teachings as the Examiner has alleged.

Under the heading "Claim Rejections – 35 USC § 103" on page 4 of the above-identified Office Action, claim 5 has been rejected as being obvious over U.S. Patent No. 4,360,586 to Flanders in view of U.S. Patent No. 5,467,166 to Shiraishi under 35 U.S.C. § 103.

The invention as defined by claim 5 would not have been suggested for the reasons given above with regard to claim 1 and the teaching in Flanders et al.

Under the heading "Claim Rejections – 35 USC § 103" on page 5 of the above-identified Office Action, claim 7 has been rejected as being obvious over U.S. Patent No. 4,360,586 to Flanders in view of U.S. Patent No. 6,309,809 B1 to Starikov under 35 U.S.C. § 103.

The invention as defined by claim 7 would not have been suggested for the reasons given above with regard to claim 1 and the teaching in Flanders et al.

Under the heading "Claim Rejections – 35 USC § 103" on page 6 of the above-identified Office Action, claim 9 has been rejected as being obvious over U.S. Patent No. 4,360,586 to Flanders in view of U.S. Publication No. 2004/0157086 A1 to Hwang under 35 U.S.C. § 103.

The invention as defined by claim 9 would not have been suggested for the reasons given above with regard to claim 1 and the teaching in Flanders et al.

Finally, applicants appreciatively acknowledge the Examiner's statement that claim 3 "would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims."

Claim 3 has been rewritten in independent form including all of the limitations of claim 1.

It is accordingly believed to be clear that none of the references, whether taken alone or in any combination, either show or suggest the features of claims 1, 2, or 3. Claims 1, 2, and 3, therefore are, believed to be patentable over the art. The dependent claims are believed to be patentable as well because they all are ultimately dependent on claim 1.

In view of the foregoing, reconsideration and allowance of claims 1-9 are solicited.

In the event the Examiner should still find any of the claims to be unpatentable, counsel would appreciate receiving a telephone call so that, if possible, patentable language can be worked out.

Petition for extension is herewith made. The extension fee for response within a period of one month pursuant to Section 1.136(a) in the amount of $130.00 in accordance with Section 1.17 is enclosed herewith.

Please charge any other fees that might be due with respect to Sections 1.16 and 1.17 to the Deposit Account of Lerner Greenberg Stemer LLP, No. 12-1099.

Respectfully submitted,

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